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churches and their endowments were managed by the parishioners through their representatives appointed from time to time. Of late, there had been a marked tendency on the part of the ecclesiastical authorities to obtain possession, absolute control and management of the churches and their properties with liberty of action to deal with them as they pleased. The people who were the real proprietors of those properties did not naturally cherish the move with favor. The result was the conversion of those sacred places consecrated to God into an arena of contest and strife involving the Christians concerned into harassing and costly litigation, both civil and criminal. Besides discord and disunion among the Christian subjects, it also caused unnecessary waste of public funds contributed by Christians for charitable purposes. Public peace had been violently shaken resulting in the closing of many a church. Disapproval of the methods adopted by the church authorities meant religious persecution of all sorts, including the refusal to perform marriages and to grant permission to bury the dead in church cemeteries. In the absence of a law to legalise Christian marriages and of Government burial grounds as in British India, the poor Christians were put to untold sufferings at the hands of the church authorities. He therefore submitted, for the consideration of the Government, that the time had arrived for the Government to exercise their powers of intervention as the guardians of the public peace and public charities and pass a legislative enactment for the protection, efficient control and management of the properties of the Christian churches and their endowments and thus avoid unnecessary litigation and waste of church funds. He added that there were laws in British India in respect of the Mahomedan, Hindu and other charities, and he prayed for a similar law here also.

On the Dewan asking whether any of the other Christian Members had to say anything on the subject, Mr. D. Francis (Member, Nominated) said that there was some dispute about the management connected with one church in the Agastiswaram taluk, that it was between the people themselves, of whom one party obeyed the priest, and that it ultimately ended in the excommunication of the party who went against the orders of the priest.

Dewan's reply.—The matter will be enquired into.

32. The necessity for certain modifications to the existing Civil law and Circulars.

Mr. K. Govinda Pillai (Member, Thiruvalla taluk) suggested the following modifications in the existing provisions of the Civil law and Circulars:—

(1) The provision of law that, in all cases of attachment before judgment, the plaintiff had to appear before the Court to swear in support of his application, should be modified. Such an appearance, which used to be dispensed with in some Courts by affidavits being accepted, had now become essential by reason of the decision reported in 26 T. L. R. 72.

(2) The provision of law that the deposit of sale proceeds in a Court did not constitute a "receipt" by the decree-holder under Section 307 A of the Civil Procedure Code worked hardship, because the *bona fide* debtor wishing to save at least some of his properties by depositing in Court

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the balance of the decree amount in his possession was prevented from doing so by the existing law. That the debtor could not deposit a portion of the amount had also been ruled in 27 T. L. R. 118 construing Section 307 A accordingly. The law therefore required modification.

(3) The present method of issuing commissions for assessing the value of improvements required alteration. Several mistakes in the valuation occurred for the reasons that the commissioners were ignorant of local conditions and methods of valuation, that there was no uniformity in the methods themselves throughout the State, and that, in some Courts, due discretion was not exercised in the choice of the commissioners. The Member proposed that the Judicial officers be requested to make local enquiries and judge for themselves more frequently than now, and as often as practicable, that local boards (three for each *pakuthi*) of respectable landed proprietors be appointed to assist the commissioners in their valuation, and that the Courts be required to address such local boards whenever they sent out a commissioner.

(4) There was no uniformity at present in the adjudgment of the shares of the Jenmi and the tenant in the value of plantations. In some places, the Jenmi was allowed one-fourth of the value of young trees which had not begun to bear, while, in other places, such a share was not allowed. The Member was of opinion that the Jenmi was entitled to a share. He requested that it should be ruled accordingly.

(5) The present practice of leaving decree-debtors in the custody of the peons under Section 325 of the Civil Procedure Code was nothing more than a farce. The debtor was generally allowed to go at large, though he was presumed to be in the keeping of the Court in the eye of the law. The practice led to corruption and also to unnecessary worry to the debtor and to the Court without any corresponding advantage to the decree-holder. The Member suggested that *bona fide* debtors, wishing to have a small respite for collecting money to pay off their debts, might be let on bail on recognisance bonds as in the case of the accused in criminal cases.

(6) The object of the provision that encumbrance certificates should be produced before proclaiming properties for sale was frustrated by reason of the fact that the certificates were not attested to be correct by any responsible Government officer. A lot of money was realised by the grant of encumbrance certificates, and yet the certificates issued were in the majority of cases incomplete and inaccurate and did not serve the purpose intended. The Member requested that the rule referred to be amended early.

(7) Execution cases were now transferred from one Munsiff's Court to another through the District Courts concerned, entailing considerable delay. There were instances of such transfers taking one year and more. The Member proposed that the Munsiffs might be permitted to transfer the execution cases direct without the intervention of the District Courts.

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(8) Perjury was very common in the Courts and considerable miscarriage of justice was caused by such offenders being left unchecked. Considering the circuitous method of prosecution for perjury provided by the Criminal Procedure Code, it was very difficult, if not impossible, to have a perjurer punished, even if the prosecution was undertaken by the civil officers. The Member therefore suggested that perjury should be classed as an offence triable and punishable by the Courts themselves, as in the cases of contempts, subject of course to the usual appeals.

(9) The sanction of the High Court was required for the transfer of a case from one Court to another holding concurrent jurisdiction, as in the case of the Principal and Additional Munsiffs' Courts in the same station. That involved considerable delay. The Member proposed that such Munsiffs might be allowed to exchange cases as was done by the District and Additional Judges.

(10) Until recently, the system of depositing suitor's money in Court and of paying it immediately to the claimant thereof obtained under the High Court circulars. The recent rules of the Account Department deprived the parties of the convenience. Now, the party had to obtain a chellan, go to the treasury and deposit the money, and the claimant of the money had immediately to follow with a cheque and go through the formalities incidental to treasury business, to the great inconvenience of the parties. The Member requested that the old arrangement might be restored.

(11) Till very recently, refund of court fees used to be made from the permanent advance and the permanent advance recouped by a draft on the treasury, whenever necessary. A new circular from the Account Office put an end to the system and the party had now to go to the treasury to cash even the smallest order. The change caused great hardship to the public and annoyance to the treasury officers concerned. The Member therefore proposed that the old system might be re-established.

(12) Warrants of arrest of debtors were not being executed with that efficiency which the work really deserved, due to corruption on the part of the process servers and a general impression among the public that civil processes might be evaded with impunity. As for the first of the causes, the Member proposed that stringent orders should be issued to the Judicial officers to exercise greater control over the work of the process servers, and that, in regard to the second cause, the Courts themselves should be authorised to try offences under Section 589 of the Civil Procedure Code and punish the offenders, subject to the usual appeals.

Dewan's reply.—The remarks of the High Court will be invited on the Member's representations.

33. Suggestions for amending the Civil Procedure Code.

Mr. S. Ganapathy Pillai (Member, Trading Classes, Trivandrum) said that several provisions of the Code of Civil Procedure required amendment, and that he would deal with them in the order of sections.

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